

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

TIMOTHY L STUDEBAKER,

Plaintiff,

v.

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

No. 6:16-cv-01023-JE

OPINION AND ORDER

MOSMAN, J.,

On October 27, 2017, Magistrate Judge John Jelderks issued his Findings and Recommendation (“F&R”) [17], recommending that the Court REVERSE the final decision of the Commissioner of Social Security (“Commissioner”) and REMAND this matter for further proceedings. The Commissioner filed Objections to the F&R [19].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendations as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal

conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny with which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon careful review, I agree with Judge Jelderks's recommendations and ADOPT the F&R [17] as my own opinion. The Commissioner's final decision is REVERSED and this matter is REMANDED for further proceedings consistent with Judge Jelderks's analysis.

IT IS SO ORDERED.

DATED this 24 day of January, 2018.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge